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ORIGINAL

May 5, 2000

REDACTED – FOR PUBLIC INSPECTION

Via hand delivery

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

Re: CC Docket No. 98-184

Dear Ms. Salas:

Enclosed for filing in the above-referenced docket are comments of Covad Communications Company in response to the Commission's April 28, 2000 Public Notice. Part of our comments includes confidential material; therefore, we are filing one confidential copy and two copies of our redacted comments

Any parties seeking access to the confidential comments should contact the undersigned at 202-220-0409.

Very truly yours,

Jason Oxman
Senior Counsel

REDACTED VERSION FOR PUBLIC INSPECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

In the Matter of	)	
GTE Corporation, Transferor	)	
and	)	CC Docket No. 98-184
Bell Atlantic Corporation, Transferee	)	
For Consent to Transfer Control	)	

Comments of Covad Communications Company

Covad Communications Company (Covad), by its attorney, hereby submits its comments in response to the Commission's April 28, 2000, Public Notice seeking comment on two issues related to Bell Atlantic's proposed acquisition of GTE. Specifically, in these comments, Covad addresses: (1) the Applicants' April 2000 supplemental filing related to compliance with section 271 of the Telecommunications Act of 1996; and (2) the Applicants' latest proposed voluntary merger commitments. Covad notes that this is the third comment cycle in as many months that the Commission has established in response to the ever-changing proposal of the merging parties. In addition, Covad respectfully suggests that the imposition of a five-day comment cycle, particularly given the importance of the issues presented by the voluminous recent filings

of Bell Atlantic and GTE, does not afford sufficient opportunity for commenters to adequately present their views to the Commission.

Covad is a competitive local exchange carrier that relies on the core market-opening provisions of the Act in order to offer its broadband services to the consumers who demand it. Covad relies on Bell Atlantic, GTE, and other incumbent LECs to meet their obligations under federal law to provide nondiscriminatory access to unbundled network elements (UNEs), collocation space, operations support systems (OSS), and other monopoly network facilities. Covad has extensive experience with the anticompetitive and discriminatory practices of both Bell Atlantic and GTE, and submits these comments to apprise the Commission of those practices and demonstrate how the proposed merger is, in the first instance, illegal, and in the second instance, proposes conditions that are woefully inadequate to protect local competitors against the powerful combination of these two entities.

The Combination of Bell Atlantic and GTE violates section 271 of the 1996 Act

Since filing their initial merger application in 1998, Bell Atlantic and GTE have engaged in such an outrageous series of schemes as to amount to nothing more than an 18- month mockery of this Commission. At first, Bell Atlantic addressed the section 271 "problem" in a footnote of its original application, promising to provide the Commission additional information on how it would resolve the issue at a later date. Then the merging parties sought a waiver of the section 271 restrictions until such time as Bell Atlantic entered the long distance market in New York (hiding behind a proposal that Bell Atlantic would seek a waiver only until 25% of its access lines were covered by section 271 authority, but not disclosing in the proposal that New York alone would

satisfy that threshhold). After withdrawing its application and concocting several new "ideas," Bell Atlantic has now created at least the public perception that it is merging with GTE without actually buying it. Bell Atlantic has attempted to create the illusion that it willingly intends to divest itself of the only valuable assets that GTE possesses – its data network. Even more incredibly, Bell Atlantic contends that its acquisition of GTE does not reduce Bell Atlantic's incentives to comply with the market-opening provisions of the Act. Rather, it contends that it will close the merger and resume the process of opening its local bottleneck to competition while its new long distance subsidiary gains status as a merged-but-not-really-merged entity.

Bell Atlantic/GTE's latest gambit – and perhaps its last – harkens back to earlier ploys.[1] This time, the parties contend that their "option" to reclaim ownership of the GTE-Internetworking "spin-off" will not manifest itself until a whopping 50% of Bell Atlantic's access lines are covered by section 271 authority. Sounds like quite a concession – until, as with Bell Atlantic's year-old 25% proposal, one actually examines the numbers. Now that Bell Atlantic has section 271 authority for New York, there are 13 Bell Atlantic states (including the District of Columbia) in which Bell Atlantic is not yet permitted to offer long distance services (such as, for example, the services offered by GTE-I). How many of those states must Bell Atlantic add to the list of long distance-approved states to meet this daunting 50% threshold? Two. It can even hedge its bets

[1] In Bell Atlantic's original application for transfer of control, filed in October of 1998, the entire extent of its discussion of the interLATA issue was contained in a single two-sentence footnote. It read: "Bell Atlantic hopes to have needed Section 271 approvals by the time this merger closes. If that process is not complete, applicants will request any necessary transitional relief from the Commission." Application for Transfer of Control, CC Docket No. 98-184, at 19 n.14. It is interesting to note that in the nearly two years since announcing the merger with Bell Atlantic, that company clearly has continued to believe that it is more important to protect its local monopoly against competition than to take the necessary steps to enter the long distance market by complying with the Act.

and try its luck with a couple of different combinations.[2] A detailed breakdown of the percentage of Bell Atlantic's access lines found in each of its regions, based on the latest ARMIS data provided by Bell Atlantic to the Commission, is attached to these comments at Appendix B.[3] As the attached chart demonstrates, the addition of just Pennsylvania and Virginia would bring Bell Atlantic above 50%, as would Maryland and New Jersey. Even with the purported protection offered by Bell Atlantic/GTE's 95% section 271 threshold, the merging parties still concede that they must seek a waiver from the Commission of section 271 requirements for the remaining states. Not only would such a waiver violate the clear mandate of section 10 of the Act, but as a policy matter the Commission has consistently held that the purposes of section 271 are not served by any measure other than full Bell Operating Company compliance with its terms.

Not disclosed anywhere in this proposal is perhaps its most dangerous attribute. Bell Atlantic and GTE have succeeded in convincing 187 members of Congress to co-sponsor H.R. 2420 -- the so-called "Tauzin-Dingell" bill, which would eliminate long distance restrictions on Bell Atlantic.[4] The merging parties have devoted incredible resources to this legislation – legislation that would completely undue the central tenets of the Act, and that this Commission has not supported. Bell Atlantic and GTE hint subtly at the importance of this alternate "pathway" to section 271 compliance on page

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[2] This also raises the question of whether Bell Atlantic considers itself bound in the future to demonstrate section 271 compliance as to the GTE lines it is attempting to acquire – in Virginia and Pennsylvania, those lines are quite numerous.

[3] Appendix B is based on Bell Atlantic Corporation 1999 ARMIS Report, Operating Data Report (43-08), Access Lines In Service by Customer (Table III).

[4] *See,* H.R. 2420, 106th Congress, 1st Sess., introduced July 1,1999, sponsored by Reps. Tauzin, Dingell, *et al.*, (amending section 271(g) to make "high speed data service or Internet access service" a permissible incidental interLATA service, and thus not subject to section 271's interLATA prohibition; *see also* H.R. 1686, 106th Congress, 1st Sess., intro. May 5, 1999, "Internet Freedom Act," (Reps. Goodlatte/Boucher) (amending section 271 so that its prohibition on BOC provision of interLATA services does not include "services that consist of or include the transmission of any data or information . . .").

one of their latest filing: the "spinoff" proposal submitted by Bell Atlantic/GTE would permit the merged parties to regain full control as soon as the merged entity "eliminates applicable section 271 restrictions."[5] By approving this "plan," the Commission gives Bell Atlantic and GTE a massive incentive to step up their lobbying activities to destroy the 1996 Act – as soon as they are successful in legislating section 271 out of existence, their merger can be fully consummated. Covad submits that the Commission should not provide Bell Atlantic and GTE any further incentive to eviscerate the market-opening provisions of the Act that the Commission has fought so hard to protect.

Since filing its original merger application in 1998, Bell Atlantic has been fighting hard for the passage of such legislation, and it has thus far failed. The fact that Bell Atlantic devoted no energy in its initial 1998 application to resolve the section 271 bar to this merger suggests that it anticipated greater success in its efforts by this time. Now, the "final termination date" of the merger – June 30, the date on which either GTE or Bell Atlantic can simply walk away from the merger agreement[6] -- is less than seven weeks away, which makes the urgency of Bell Atlantic's latest proposal transparent. Having failed in all the alternative pathways – everything from section 706 petitions for "data LATAs" to constitutional challenges to section 271 of the Act to legislative lobbying – Bell Atlantic now faces the threat of its merger with GTE falling apart. Given that Bell Atlantic/GTE must spinoff Genuity with an as yet unscheduled IPO before the merger can close, the immediacy with which Bell Atlantic presented its latest scheme last week is understandable. What would not be understandable is if this Commission were

[5] Letter from William P. Barr, General Counsel, GTE Corp., to Magalie Roman Salas, Secretary, FCC, dated Apr. 28, 2000, at 1 (Barr April 28 Letter).

to ignore the clear dictates of Congress and the important policies of section 271 by approving this merger.

As detailed by Covad and other commenters in response to the Commission's January 31, 2000, Public Notice, the purchase by Bell Atlantic of GTE and its long distance operation is a clear and unambiguous violation of section 271 of the Act. Were this not the case, Bell Atlantic would not have to go through such contortions to convince the Commission that it is not actually buying GTE's long distance assets. Rather than repeat the arguments made in Covad's extensive prior filings, Covad incorporates by reference here the objections to the spin-off plan already raised. A handful of additional points are, however, necessary.

First, Bell Atlantic and GTE make much of the fact that the merged parties can sell their option to buy Genuity at any time if Bell Atlantic does not succeed in eliminating section 271 restrictions. The parties suggest that if section 271 remains an obstacle to exercise of that option, they will receive "none of Genuity's appreciation."[7] In addition, the parties note that if a court or agency determines that the spinoff is a violation of section 271, the merged parties' option shall immediately be converted into the 80% of Genuity that Bell Atlantic/GTE do not own, and Bell Atlantic/GTE "shall be given a reasonable time to dispose of the shares" that represent more than 10% of Genuity.[8] These two facts demonstrate one inescapable conclusion: Bell Atlantic/GTE after the merger will own Genuity. The fact that Bell Atlantic/GTE have the ability immediately to sell an 80% interest in Genuity (either voluntarily or if compelled)

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[6] Exhibit B to the Application for Transfer of Control filed on October 2, 1998 contains, at Article IX, a provision for a "Final Termination Date" by which either GTE or Bell Atlantic can terminate the merger agreement without penalty. That "Final Termination Date" is set in the agreement as June 30, 2000.
[7] Barr April 28 Letter at 1.

demonstrates without equivocation that the parties would have an ownership interest in Genuity beyond that permitted by section 271 of the Act.

Second, Bell Atlantic/GTE suggest that the level of interest that the merged parties will have in Genuity before the "exercise" of its option are "modeled on investor protections that have regularly been permitted by the Commission."[9] These "investor protections" are patent violations of section 271 because they are part of an elaborate structure that, at the end of the day, grants Bell Atlantic ownership (via board membership, veto power over company decisions, limitations on Genuity's ability to raise additional capital, and other provisions discussed in the Confidential section of these comments) of a long distance company. Never before has this Commission blessed such a blatant violation of section 271 in the name of "investor protections."

*****BEGIN CONFIDENTIAL PORTION OF COMMENTS*****

Redacted for public inspection.

*****END OF CONFIDENTIAL PORTION OF COMMENTS*****

The Combination of Bell Atlantic and GTE will irreparably harm competition

As Covad argued extensively in its comments submitted in response to the Commission's January 28, 2000 Public Notice, the Commission should start with the presumption – as it did in the context of the SBC/Ameritech merger – that the combination of Bell Atlantic and GTE will cause substantial harm to the public interest. It is Covad's strong belief that Bell Atlantic's attempt to purchase a long distance company before it has the requisite section 271 approvals is reason enough to deny the instant applications. Should the Commission disagree, Covad respectfully submits that

[8] Barr April 28 Letter at 7.
[9] Barr April 28 Letter at 4.

the harm to local competition that would result from the combination of these two entities is sufficient independent grounds for denial of the applications. Covad details below, however, certain measures the Commission could take to mitigate the competitive harms of this combination should it decide to approve Bell Atlantic and GTE's applications.

UNE Loop discounts

Bell Atlantic/GTE have proposed the same unbundled loop discounts as the Commission required SBC/Ameritech to offer, but for some reason the parties do not want to provide such discounts for loops used to provide advanced services. This is probably due to Bell Atlantic/GTE's recognition that advanced services represent the fastest growing sector using unbundled loops, and it is of vital importance to block competitive entry into that sector. Because there is absolutely no difference between the harm that voice and data LECs will suffer at the hands of a merged Bell Atlantic/GTE, there is no justification whatsoever for barring data LECs from accessing the procompetitive benefits of the loop discount. Such a discount is a measure designed to offset the anticompetitive harm of this merger, and it should be made available to all competitors. The Commission must require Bell Atlantic/GTE to make the loop discount available to all requesting carriers, including advanced service providers.

Definition of Advanced Services

In order to provide a useable and procompetitive benchmark for advanced services, the Commission should examine closely the parameters proposed by Bell Atlantic for the creation of its separate data affiliate. As Covad has experience in New York with the affiliate Bell Atlantic is preparing to deploy, the following suggestions will help prevent the deployment on a region-wide basis of an affiliate that is offering little

protection for competitors in New York. Specifically, the definition of services that must be offered through the affiliate is insufficient to protect Covad against the abuses in loop provisioning that the affiliate is designed to prevent. In theory, Covad is entitled to the same loop provisioning intervals that Bell Atlantic provides to its own affiliate. In practice, however, Bell Atlantic's affiliate offers only line-shared services (ADSL) that require no loop provisioning. As a provisioning benchmark, then, the affiliate is worthless.[10] If, however, Bell Atlantic is required to provide its ISDN services through the advanced services affiliate, the Commission would establish a useful benchmarking tool. ISDN requires the provisioning of a standalone loop, and if the affiliate orders such loops, Covad would be entitled to the same provisioning interval. As the affiliate proposal now stands, Covad and other competitive LECs would be without a useful benchmark for loop provisioning. It is interesting to note that Bell Atlantic now includes IDSL, a flavor of DSL service that uses ISDN technology – and a technology that Bell Atlantic does not deploy, within the definition of advanced services, but not ISDN, a nearly identical service. The Commission should order Bell Atlantic to provide ISDN through its separate data affiliate in order to provide some real protection for data LECs.

Another measure Bell Atlantic has taken to limit the effectiveness of its separate affiliate is found in the OSS provisions related to that affiliate. Bell Atlantic purports to impose a "nondiscrimination" requirement on its OSS, promising to provide "the same interfaces, OSS, processes and procedures" to unaffiliated competitive LECs as Bell

[10] Covad is attempting to secure the linesharing capability to which it is entitled by law from Bell Atlantic, but Bell Atlantic's obstinate negotiating stance has forced Covad to seek arbitration in New York, Pennsylvania, Massachusetts and Maryland thus far – Bell Atlantic has yet to provide line sharing to Covad. Even when Bell Atlantic is compelled to provide linesharing to Covad, Covad offers numerous varieties of DSL that still require the provisioning of a standalone loop, and will be without a benchmark from the affiliate because it orders no standalone loops from Bell Atlantic.

Atlantic does to its affiliate – but only if Bell Atlantic and affiliate engage in "permitted joint marketing."[11] Joint marketing is defined to include "sales and completing the sales function, up to and including the taking of an order."[12] This is an important limitation. Bell Atlantic has effectively protected itself from having to provide provisioning and repair and maintenance OSS on a nondiscriminatory basis to competitors, because such OSS are not used "up to and including the taking of an order." In addition, if Bell Atlantic's affiliate takes over the ordering functions, Bell Atlantic will have absolutely no obligation to avoid discrimination in providing its OSS to its affiliate and competitors. The Commission must require Bell Atlantic to provide immediate (not the six months it grants itself) nondiscriminatory access to all OSS functions that its affiliate uses – not just those few functions for which Bell Atlantic is purporting to give up the power to discriminate. The requirement should be clear: any OSS that the separate affiliate has access to, regardless of the functions it performs with that OSS, must be made available on a nondiscriminatory basis to requesting carriers.

Protective Order

Bell Atlantic/GTE attempt to limit the distribution of the performance data it submits to the Commission to only those parties that have signed a protective order.[13] Historically, Bell Atlantic has used protective orders against Covad in an attempt to prevent Covad from disclosing details of Bell Atlantic's unlawful actions to regulatory authorities. The Commission should not permit Bell Atlantic/GTE to exercise a similar gambit by permitting the parties to block disclosure of post-merger performance data. In

[11] Letter from Michael E. Glover, Assistant General Counsel, Bell Atlantic, to Magalie Roman Salas, Secretary, FCC, dated April 14, 2000, at 4.
[12] Id.
[13] Glover April 14th Letter at Conditions, para. 8.

addition the Commission should ensure that Covad and other competitive LECs have the opportunity to comment on the proposed linesharing performance metrics to be submitted by Bell Atlantic/GTE 30 days after the merger closes.[14]

Discounted Surrogate Line Sharing Charges

This pro-competitive discount provides, as it did with SBC-Ameritech, a financial incentive for Bell Atlantic/GTE to implement line sharing as soon as possible. But Bell Atlantic/GTE have now added a single sentence to eviscerate that incentive. The new language provides that the surrogate line sharing discount "shall apply only when line sharing is not required."[15] As Covad struggles to force incumbent LECs to provision the linesharing UNE, Bell Atlantic and Covad have been in agreement on one point: Bell Atlantic is required to provision linesharing to Covad by June 6, 2000. But Bell Atlantic has informed Covad that it will not have linesharing capability available in all of its central offices throughout its region by that date. It is of vital importance, then, that Bell Atlantic (and GTE) have an incentive to implement line sharing as quickly as possible. The surrogate line sharing discount provides that incentive, but by adding language stating that the discount is only available "when line sharing is not required," Bell Atlantic/GTE have provided a drop-dead date of June 6, 2000, when the discount will no longer be available. The Commission should not permit this limitation. Rather, the Commission should require an operational benchmark that provides real incentive. Specifically, the Commission should require that the surrogate line sharing discount remain available throughout the Bell Atlantic/GTE region until such time as Bell Atlantic/GTE provision the linesharing UNE to requesting carriers within three business

[14] Id.
[15] Id. at para. 13.

days of the submission of an order for the UNE, 90% of the time.[16] Only when linesharing is operationally ready and fully deployed will the need for the surrogate line sharing discount be eliminated.

Operational Support Systems

As detailed in Bell Atlantic and GTE's supplemental filings, the combined company will maintain its practice of keeping competitors' costs as high as possible by refusing to implement a uniform OSS system in the merged entity's region. Covad tries to use a unified internal OSS system (to the extent permitted by ILEC OSS) and unified network services and equipment, and thus the costs that Covad incurs to enter and offer service in a particular market are "common" across ILEC regions. For example, Covad must build its OSS back office systems and interfaces to match the ILEC's systems.[17] In addition, excessive costs – from inflated collocation, loop conditioning, and OSS charges – and discriminatory delays – from delayed implementation of line sharing and sub-loop unbundling to year-long collocation provisioning intervals – are rampant in both Bell Atlantic and GTE territories. As a new entrant throughout both territories, Covad will suffer exactly the anticompetitive harm from the combination of Bell Atlantic and GTE that the Commission sought to prevent by imposing conditions on the combination of SBC and Ameritech.

In its latest revisions, Bell Atlantic/GTE has granted itself more time to do less work in making its OSS accessible to competitors.[18] Bell Atlantic/GTE should be

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[16] Covad recently signed an interconnection agreement modification with BellSouth for the linesharing UNE in which BellSouth committed to provide the UNE within a three business day timeframe.
[17] As detailed in Bell Atlantic and GTE's January 2000 supplemental filing, the combined company will maintain its practice of keeping competitors' costs as high as possible by refusing to implement a uniform OSS system in the merged entity's region. See BA/GTE Supplemental Filing at 22.
[18] Glover April 14th Letter at para. 18.

required to submit within 30 days to the Commission its OSS plan for uniform OSS interfaces and business rules across the Bell Atlantic/GTE region. As to the rest of Bell Atlantic/GTE's OSS proposals, Covad has already submitted detailed comments concerning the OSS requirements that the Commission should impose on the merging parties, and there is no need to repeat them here.[19] While Covad is encouraged that Bell Atlantic/GTE are agreeing to build uniform interfaces and business rules for DSL services in Virginia and Pennsylvania, the parties have given themselves *five years* to do so.[20] It is inconceivable that Bell Atlantic/GTE require until the year 2005 to develop simple software workarounds for masking the differences between their respective OSS. Even within that frighteningly anticompetitive time period, Bell Atlantic/GTE give themselves the ability to refuse to adopt uniform interfaces and business rules if "product definitions" cause differences in OSS between the regions.[21] What else would cause a difference other than "product definitions?" What could be a wider loophole? Also in their latest round of revisions, Bell Atlantic/GTE still refuse steadfastly to deploy uniform OSS interfaces and business rules across their combined regions. Instead, the parties plan to force competitive LECs to utilize different interfaces and business rules – forcing competitors to deploy different back office OSS for two parts of the same incumbent LEC. This is the height of anticompetitive behavior. Covad attaches as Appendix A to these comments a description of the ease with which Bell Atlantic/GTE could facilitate – rather than block – competition by deploying uniform interfaces and

[19] See Letter from Jason Oxman, Senior Counsel, Covad Communications, to Jake Jennings, Deputy Chief, Policy Division, Common Carrier Bureau, FCC, dated March 13, 2000.
[20] Glover April 14th Letter at para. 19(f).
[21] Id.

business rules that adapt to differences in legacy systems on the incumbent side of the interface, rather than forcing competitive LECs to try to adapt to the different systems.

If Bell Atlantic/GTE refuse to implement uniformity of business rules, each competitive LEC will be forced to develop an OSS gateway that addresses the disparity in business rules. It is much more rational to implement that same logic on the ILEC side than within each CLEC gateway.[22] The Commission must condition approval of this merger on a requirement that Bell Atlantic deploy uniform OSS interfaces and business rules throughout their entire combined region.

Line Sharing

On November 18, 1999, the Commission adopted an Order requiring incumbent LECs, including Bell Atlantic and GTE, to provide requesting carriers with access to linesharing as a UNE pursuant to section 251(c)(3) of the Act. In order to insure the rapid implementation of linesharing, the Commission provided an accelerated timetable for linesharing deployment, the goal being to have linesharing operationally available to competitive LECs by June 6, 2000, 180 days after adoption of the Order.

Covad submitted to Bell Atlantic a request for negotiations for modification of interconnection agreement for linesharing on November 18, 1999. Despite repeated requests from Covad, Bell Atlantic did not submit to Covad a modification proposal until April 17, 2000, five months after Covad's initial request. In its proposed contract, Bell Atlantic will only agree to the existing collocation interval for splitter installation in each

[22] Indeed, Bell Atlantic/GTE note in their April 14th filing that when they do get around to implementing uniform OSS and business rules in Virginia and Pennsylvania, the OSS and rules will then be different from the OSS and rules in place in the rest of GTE's territory. Glover April 14th Letter at para. 19(f)(4). This highlights the abject lunacy of the merging parties' refusal to implement a truly uniform OSS and business rules. Instead, the parties are attempting to create a patchwork OSS that raises competitors costs and impedes their ability to compete effectively.

state, and to the existing stand-alone loop provisioning interval for each state. This despite clear language in the linesharing order stating that provisioning of the linesharing UNE should be significantly shorter than the stand-alone loop provisioning interval[23], because there is significantly less work (only a simple cross-connect) for the ILEC to do in provisioning line sharing, and that splitter installation should be completed quickly, in any event in the same time that incumbents do it for themselves.[24]

Bell Atlantic and GTE (together with SBC) have been the most obstinate of incumbents – Covad has already signed agreements with BellSouth and U S WEST for linesharing implementation. In order to guarantee that the procompetitive benefits of linesharing are available to competitive LECs – of vital importance in the face of the powerful combination of Bell Atlantic and GTE – the Commission must condition approval of that merger on linesharing compliance. Specifically, Bell Atlantic/GTE must agree to provide an immediately available interconnection agreement modification that provides the linesharing UNE by June 6, 2000, throughout the merged parties' territories at (1) zero loop cost (which Bell Atlantic has already agreed to provide), (2) a splitter installation interval of 15 days from competitive LEC request, and (3) a provisioning interval of three business days for the UNE (which BellSouth has agreed to provide in its contract). Only with those simple and procompetitive terms and conditions will competitive LECs have a fair chance to compete with the merged parties.

Bell Atlantic/GTE Self-Selected "Conditions" Are Inadequate and Must Be Strengthened

In its March 2000 comments, Covad undertook a line-by-line analysis of the proposed conditions filed by Bell Atlantic and GTE. Covad reasserts all of the objections

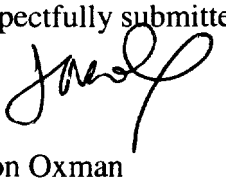
[23] Linesharing Order at ¶ 173.

raised in those comments and in reply comments, rather than repeat them here. Because those objections were of vital importance to the adoption of fair and competition-preserving conditions, Covad urges the Commission to reexamine Covad's prior filings and to instruct Bell Atlantic/GTE to modify their proposed conditions accordingly.

Conclusion

As demonstrated by Covad in its February 15, 2000, comments on the "divestiture" proposal of Bell Atlantic and GTE, and again in these comments on the updated proposal, the Commission must deny the application of Bell Atlantic and GTE, because Bell Atlantic is attempting to purchase a long distance provider in direct violation of section 271 of the Act. To the extent that the Commission concludes that Bell Atlantic is not really merging with a long distance provider, Covad submits that the Commission should ensure that competitors seeking to provide service in Bell Atlantic and GTE's regions are not harmed by the merger of these two large monopolists. Covad urges the Commission to examine closely the "commitments" made by the merging parties and protect competition by imposing the conditions that serve the public interest, not Bell Atlantic and GTE's business plans.

Respectfully submitted,



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[24] Linesharing Order at ¶ 77.

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May 5, 2000

Appendix A – OSS

COVAD

Uniform OSS Gateways and Business Rules

Recent carrier merger conditions and collaboratives have raised awareness of the need for uniform OSS Business Rules. The debate over whether or not to implement uniformity is being addressed across all ILEC regions and states including Bell Atlantic and GTE. There is little doubt that some level of uniformity can be achieved in OSS gateways no matter how diverse the backend OSS. Therefore the debate should move from whether or not to implement, to how and when implementation should occur.

OSS Gateway

The ATIS standards organizations along with the CLEC and ILEC communities have debated the definition of OSS gateways and OSS Business Rules for quite some time. No standard definition has been accepted, yet the ILEC's are contending that uniformity in Business Rules of OSS gateways cannot be accomplished. The fact is that such uniformity can be accomplished. All that is required is that both Business Rules and OSS gateways be identified. The identification of an OSS gateway or a business rule is best achieved by providing graphic examples of each, as follows.

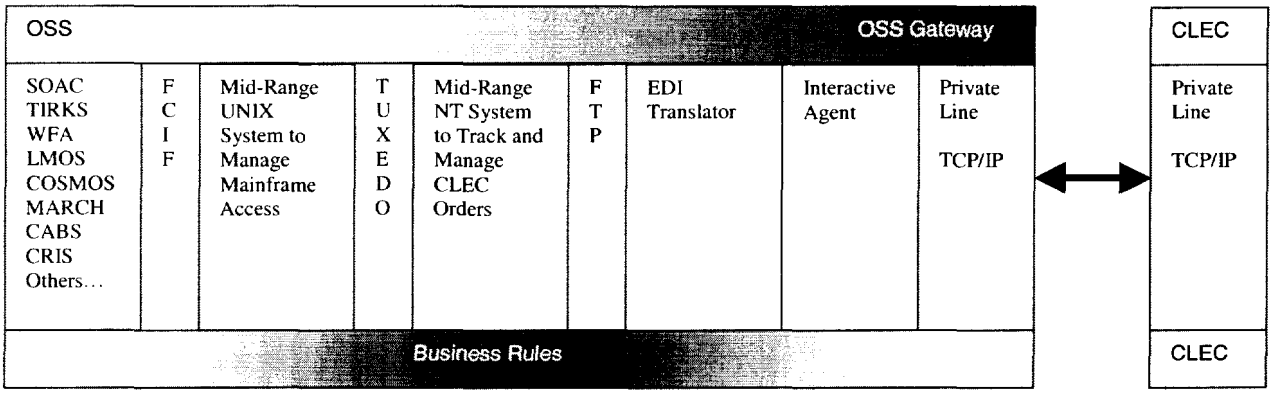

Figure 1 – Example of ILEC OSS and OSS gateway

CLEC OSS

The top section of Figure 1 represents the transition from OSS to OSS gateway. The middle portion of Figure 1 identifies possible systems and technologies involved in OSS and OSS gateways. The shaded area of the bottom portion of Figure 1 depicts location of the highest concentration of Business Rules in OSS and OSS gateways.

When the top and bottom portions of Figure 1 are overlapped, they reveal that the highest concentration of Business Rules is somewhere in the transition between OSS and OSS gateway. The systems and technologies associated with that transition are not legacy systems but newer mid range systems. Enhancements to those mid range systems are less complex and can be accomplished with internal resources or professional services from many telecom vendors.

Business Rules

Business Rules are the requirements, specifications and policies defined by the ILEC that will cause an LSR to be rejected or not be processed if the requirements, specifications and policies are not followed by CLEC. Business Rules assist the CLECs in building gateways that will integrate and interact with ILEC gateways for LSR processing. Business rule examples:

1. Sender Authentication – Is the CLEC allowed to transmit LSRs?
2. Transport – Was the data transmission successful?
3. Format Validation – Is this a request or response? Does the LSR follow ATIS/TCIF specifications?
4. Field Edits – Numeric or alphanumeric? Are all the mandatory fields populated?
5. Data Validation – Can the specified service ordering code be used with the specified class of service? Is voice mail available from the specified serving office?
6. Section Validation – Is the billing information correct? Is the services and equipment information complete?
7. Notifications – What are the intervals for a receipt acknowledgement, FOC, SOC, and Jeopardy?

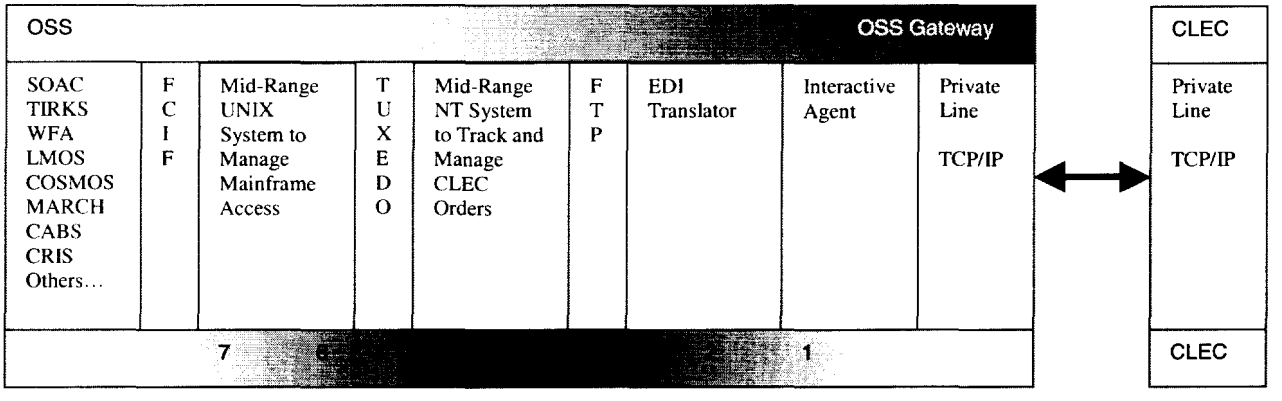

Figure 2 – Example of ILEC OSS, OSS gateway and Business Rules

CLEC OSS

The bottom portion of Figure 2 is an example of the sequencing of Business Rules as they are applied to LSR's passing from the OSS gateway to the OSS. The numbers correlate to the Business Rule examples above.

ILEC contentions that Business Rules are difficult if not impossible to unify are without merit. Business Rules encompass requirements, specifications and policies for many

different systems, applications, formats, and technologies. A categorical refusal to develop uniform Business Rules discounts the fact that Business Rules have different levels of complexity and importance. Bell Atlantic and GTE are proposing to address only the first and/or second layers of Business Rules. That is not enough. Uniformity in those layers has only marginal benefit to the CLECs. Uniformity must be addressed across all Business Rules layers.

Data Conversion

The data representation in ILEC legacy systems varies from ILEC to ILEC. This holds true whether the legacy system was developed by Telcordia or some other entity. In a merger situation the ILECs, not the CLECs, must determine how to manage the differences in data representation to create the look and feel of one OSS.

The examples of OSS gateways and Business Rules in this document identify what needs to change within the ILEC environment in order to achieve a level of uniformity. The following examples of how changes could be implemented should dispel the notion that uniformity cannot be achieved.

DSL order submitted to Bell Atlantic
Number – 123
Direction - West
Street - Main Avenue
Unit - 2B
City - Albany
State - NY

DSL order submitted to GTE
Number - 123
Direction - W
Street - Main
Thoroughfare - Avenue
Unit - 2B
City - Sacramento
State - CA

Figure 3 – Disparate LSRs

Figure 3 is an example of the possible differences that may exist in the LSR between two ILECs. OSS gateways built by each CLEC transacting business with the two ILECs would need to have logic to recognize that Bell Atlantic requires the street direction "West" to be spelled out, while GTE requires that a street direction field be populated with a "W". In addition the CLEC OSS gateway would need to contain logic to move the thoroughfare "Avenue" into its own field on the GTE LSR.

The logic to handle both situations could just as easily be implemented in the ILEC OSS gateway. If the logic was moved from the CLEC OSS gateway to the ILEC OSS gateway the LSR becomes uniform as depicted in the example below.

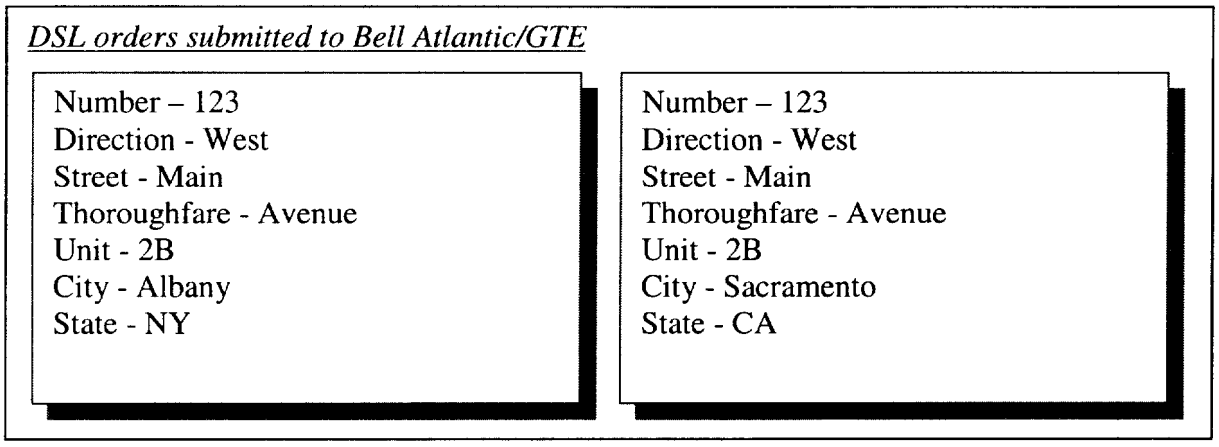

Figure 4 – Uniform LSRs

The ILEC OSS gateway would receive the uniform LSR, determine the incumbent carrier for that address, convert the LSR data into the requirements of the incumbent carrier, and forward the LSR to the legacy systems for processing. Below is the pseudo logic that would create a level of uniformity if implemented in the ILEC OSS gateway.

```
Receive LSR from CLEC
Determine the incumbent carrier for the specific end-user/address
If incumbent = Bell Atlantic then
        Append Thoroughfare to Street
        Forward LSR to Bell Atlantic legacy systems
If incumbent = GTE then
        If Direction = West then
                Direction = "W"
        Forward LSR to GTE legacy systems
```

Summary

If ILECs that have merged refuse to implement some level of uniformity of Business Rules each CLEC will be forced to develop an OSS gateway that addresses the disparity in Business Rules. Those CLEC OSS gateways will attempt to hide the disparity in ILEC Business Rules from the CLEC internal OSS. It is much more rational to implement that same logic on the ILEC side than within each CLEC gateway.

Appendix B – Bell Atlantic Total Access Lines by State

Percentage of Bell Atlantic Total Access Lines by State